IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6486 of 2007()

CRIME NO.471/2007 OF PARASSALA POLICE STATION

: PETITIONER/IST ACCUSED

SURESH,S/O.NADESAN,
PARAYARUVILA VEEDU,
KATTAKULANGARA, ARUVANKODU,
INJIVILA, PARASSALA.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENTS: RESPONDENT

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6486 of 2007

Dated this the 24th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. His father is the 2nd accused. They face allegations under Section 326 r/w 34 I.P.C. The crux of the allegations is that the petitioner along with the 2nd accused in furtherance of their common intention attacked the defacto complainant with a dangerous weapon-a wooden stick resulting in grievous hurt - loss of tooth to the defacto complainant. The alleged incident occurred on 3.10.07. The victim had gone to the doctor on 4.10.07 and made a clean breast of the allegations now raised. The F.I statement is seen registered only on 9.10.07. The petitioner apprehends imminent arrest.

2. According to the petitioner, he is absolutely innocent. There is a property dispute between the rival contestants. The defacto complainant had indulged in objectionable and culpable activities. He was drunk also. He must have fallen and suffered the injuries. The petitioner does not deserve to endure the trauma of arrest and detention. In these circumstances, anticipatory bail may be granted to the petitioner, it is prayed.

3. The application is opposed by the learned Public Prosecutor . No circumstances exist justifying the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor .

4. I find merit in the opposition by the learned Public Prosecutor . I am unable to perceive any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must surrender before the learned Magistrate and seek regular bail.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-